

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN M. BALE,

Plaintiff,

v.

CHARLES N. SCHANDEL, et al.,

Defendants.

CASE NO. 12-5957 RJB

ORDER ON MOTION
REQUESTING ORDER
CORRECTING THE PROPER
AMOUNTS OWED

This matter comes before the Court Plaintiff's July 20, 2016 pleading entitled "Motion W/Order of Plaintiff Requesting and Order Correcting the Proper Amounts in Owed/Deductions." Dkt. 34. The Court has reviewed the motion and the remaining file.

This civil rights case was filed on November 5, 2012. Dkt. 1. Plaintiff's application to proceed *in forma pauperis* was granted. Dkt. 4. Defendants appeared, filed answers to the complaint, and filed responses to motions. Dkts. 7, 15, 19, 22, 23, and 30.

On September 12, 2013, Plaintiff filed a motion to voluntarily dismiss the Complaint without prejudice. Dkt. 28. On November 4, 2013, the Report and Recommendation of U.S. Magistrate Judge J. Richard Creatura (Dkt. 31) was adopted and the matter dismissed without

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1 prejudice. Dkt. 33. Plaintiff's only objection, that he did not want to pay the filing fee because
 2 he was indigent, was rejected because under 28 U.S.C. § 1915 (b)(1), "if a prisoner brings a civil
 3 action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a
 4 filing fee." *Id.*

5 In his present motion, Plaintiff moves the Court for an order "correcting the deduction
 6 amount" that is being taken out of his prisoner account under the "three strike provision" for this case
 7 and several other cases. Dkt. 34. He asserts that he filed three 1983 complaints, and has been
 8 deducted for five cases "when the court should have denied the other two." *Id.* Plaintiff does not
 9 identify which cases should have been "denied" or the basis of such a denial. *Id.* Although far from
 10 clear, Plaintiff appears to indicate that \$181.57 should be "deducted" from this case. *Id.*

11 Plaintiff's motion (Dkt. 34) should be denied as to this case. *Id.* To the extent that Plaintiff
 12 contends that he should not have to pay the filing fee in this case, this argument was addressed in the
 13 November 4, 2013 Order Adopting the Report and Recommendation. Dkt. 33. Now, as then, the
 14 argument is without merit. Section 1915 requires Plaintiff pay the filing fee, and sets up a payment
 15 schedule of an initial partial filing fee and monthly payments for the remainder. 28 U.S.C. §
 16 1915(b)(1)-(2). Pursuant to 28 U.S.C. § 1915, Plaintiff should be required to continue to pay the
 17 filing fee. Plaintiff makes no showing that the amount collected for this case was incorrect or that he
 18 is due a refund.

19 It is **ORDERED** that:

- 20 • Plaintiff's July 20, 2016 Motion W/Order of Plaintiff Requesting and Order
 21 Correcting the Proper Amounts in Owed/Deductions (Dkt. 34) **IS DENIED.**

22 The Clerk is directed to send uncertified copies of this Order to U.S. Magistrate Judge J.
 23 Richard Creatura, all counsel of record and to any party appearing *pro se* at said party's last
 24 known address.

1 Dated this 8th day of August, 2016.

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4 ROBERT J. BRYAN
United States District Judge